

1 Amend 2 Cal. Code Regs. Section 18360 to read:

2 **§ 18360. Complaints.**

3 (a) Pursuant to ~~Government Code~~ Section 83115, ~~any~~ a person may submit a
4 formal complaint to the Commission concerning ~~possible~~ an alleged violations violation
5 of the Political Reform Act (Title 9 (commencing with Section 81000) of the
6 Government Code; referred to in this regulation as “the Act”)~~relating to any state agency,~~
7 ~~state official, state election, state lobbyist or state legislative or administrative action.~~

8 (b) ~~Formal complaints may~~ A formal complaint shall be filed on a form made
9 available by the Commission and ~~in any event shall:~~ comply with all of the following
10 requirements:

11 (1) ~~be~~ Be in writing;

12 (2) ~~be~~ Be verified signed under penalty of perjury by the complainant;

13 (3) State the basis for the complainant’s personal knowledge that the facts
14 constituting each alleged violation are true and correct.

15 (3) ~~(4) identify~~ Identify the person or persons who allegedly violated the Act and,
16 if known, the specific provision or provisions of the Act allegedly violated;

17 (4) ~~(5) describe~~ Describe with as much particularity as possible the facts
18 constituting the alleged violation;

19 (5) ~~(6) include~~ Include or describe with as much particularity as possible any
20 evidence or means of obtaining evidence in support of the complaint; ~~and,~~

21 (6) ~~(7) include~~ Include names and addresses of potential witnesses, if known.

22 (c) ~~Nothing in this~~ This regulation ~~shall~~ does not prevent ~~any~~ a person from
23 ~~informally~~ anonymously complaining by telephone to the Commission ~~or presenting~~

1 ~~information regarding possible violations of the Act, but only a formal complaints~~
2 complaint filed substantially in conformity with subsections (a) and (b) shall entitle
3 subdivision (b) entitles the complainant to the procedural rights set forth in ~~Government~~
4 ~~Code~~ Section 83115 and in this regulation. ~~The members of the Commission and, where~~
5 ~~appropriate, other agencies which have an interest, shall be provided with information~~
6 ~~about all informal complaints on a regular basis. The staff shall make every effort to~~
7 ~~cooperate with any other governmental agency which would be in a position to assist the~~
8 ~~staff on the complaint. The staff may, however, decline to disclose the identity of a~~
9 ~~confidential source.~~

10 (d) ~~Upon receipt of a formal complaint that conforms with the provisions of~~
11 ~~subsection (b), the staff shall send a copy to the members of the Commission and prepare~~
12 ~~an initial response. Prior to each regularly scheduled Commission meeting, Commission~~
13 ~~staff shall provide the members of the Commission a report with the following~~
14 information about all formal complaints received since the last report:

15 (1) The name of the complainant unless the complainant is a confidential
16 informant.

17 (2) The name of the person or persons complained against.

18 (3) The date the complaint was filed.

19 (4) The alleged violations of the Act.

20 (e) The Commission staff, where appropriate, shall also provide other agencies
21 that have an interest with information about complaints. The staff shall make every effort
22 to cooperate with any other governmental agency in a position to assist the staff on a

1 complaint. The staff may, however, decline to disclose the identity of a confidential
2 informant.

3 ~~(e)~~ (f) The Executive Director shall ~~initial response~~ respond to a formal complaint
4 as follows:

5 (1) Notify the complainant in writing within 14 days of receipt of the formal
6 complaint. The response shall be made in writing to the complainant within 14 days by
7 the Executive Director on behalf of the Commission and shall state that the Commission
8 will do one or more of the following:

9 ~~(1)~~ (A) ~~will investigate~~ Investigate the allegations of the complaint; ~~or,~~
10 ~~(2) will require additional time to evaluate the complaint to determine whether an~~
11 ~~investigation should ensue and provide an appropriate explanation for the delay; or~~

12 ~~(3)~~ (B) ~~will refer~~ Refer the complaint to another agency; ~~or,~~

13 ~~(4)~~ (C) ~~will take~~ Take no action on the complaint because, on the information
14 presented, the Commission ~~has no~~ does not appear to have jurisdiction ~~to investigate the~~
15 ~~complaint; or,~~

16 ~~(5)~~ (D) ~~will take~~ Take no action on the complaint because the allegations ~~of the~~
17 ~~complaint~~ do not warrant the Commission's further action ~~by the Commission~~ for the
18 ~~reasons~~ reason stated in the response.

19 (E) Take additional time to evaluate the complaint to determine whether an
20 investigation should ensue and provide an appropriate explanation for the delay. This
21 information shall be provided within successive intervals of no more than 14 days per
22 interval until the Commission notifies the complainant it has acted on the complaint
23 under subparagraphs (A) through (D).

1 (2) Provide a person who is the subject of the formal complaint with a copy of the
2 complaint. The Commission may decline to provide the complaint or any part of the
3 complaint if the Chief of the Enforcement Division concludes that providing the
4 information is likely to jeopardize an investigation.

5 (g) If the Commission investigates the allegations of a formal complaint, the
6 Executive Director shall notify the complainant in writing of all of the following:

7 (1) The time, date, and location of any public hearing or public meeting on the
8 complaint scheduled to be heard by an administrative law judge or the Commission.

9 (2) The date, time, and location of any public proceeding on the complaint
10 scheduled to be heard by a court.

11 (3) The Commission's or a court's final resolution of the complaint.

12 ~~(f) If the initial response is made pursuant to subparagraphs (e)(3), (4) or (5), it~~
13 ~~shall be sent to the members of the Commission before it is sent to the complainant. The~~
14 ~~members of the Commission shall be given reasonable time to suggest changes in the~~
15 ~~response and, if any member requests, the matter shall be considered in executive session~~
16 ~~at the next Commission meeting at which time the Commission may instruct the staff to~~
17 ~~take appropriate further action.~~

18 ~~(g) In the case of a formal complaint, if no final action was taken at the time of~~
19 ~~the initial response, the Executive Director shall take such steps as are appropriate under~~
20 ~~2 Cal. Adm. Code Sections 18361.1 through 18361.8 or shall prepare a final response~~
21 ~~stating that the Commission will take no further action and stating the reason for the~~
22 ~~decision. Such a final response shall be sent to the members of the Commission before it~~
23 ~~is sent to the complainant. The members of the Commission shall be given a reasonable~~

1 time to suggest changes in the response and, if any member requests, the matter shall be
2 considered in executive session at the next Commission meeting at which time the
3 Commission may instruct the staff to take appropriate further action.

4 (h) If, in the exercise of his or her discretion, the Executive Director determines
5 that prompt action is required on a formal complaint, he or she may approve the sending
6 of an initial or final response without complying with the provisions of subsections (f) or
7 (g). However, the Executive Director shall make reasonable efforts to consult with the
8 members of the Commission consistent with the need for prompt action.

9 (i) If the person who filed the formal complaint disagrees with an initial or final
10 response, he or she may submit in writing, within 20 days of receipt of the response, a
11 request for reconsideration which shall be directed to the Chairman of the Commission.
12 Such request shall be considered by the Commission in executive session at its next
13 regularly scheduled meeting. Written notice of the Commission's decision shall be sent to
14 the complainant by the Chairman.

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16 12/14/2007Note: Authority cited: Section 83112, Government Code.

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18 Reference: Section 83115, Government Code.